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BY HAND and EMAIL (rick.sullivan@state.ma.us)
Secretary Richard K. Sullivan, Jr.
Executive Office of Energy and Environmental Affairs (EOEEA)
Attn: MEPA Office
William Gage, EEA No. 12021
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: BioSquare Phase II, Supplemental Final Environmental Impact Report

Dear Secretary Sullivan:

We represent the plaintiffs in state and federal lawsuits regarding the proposed National Emerging Infectious Diseases Laboratories (the "NEIDL") at Boston University ("BU")/Boston University Medical Center ("BUMC"). *Ten Residents of Boston* v. *Boston Redevelopment Authority et al.*, Civil Action No. 5-0109-BLS1 (consolidated with No. 5-02665) (Suffolk Sup. Ct.); *Allen et al.* v. *National Institutes of Health et al.*, Civil Action No. 06-10877-PBS (D. Mass.). This letter provides our clients' comments regarding BU's Supplemental Final Environmental Impact Report ("SFEIR") for the NEIDL.

The SFEIR was prepared and filed following the Superior Court's and Supreme Judicial Court's decisions vacating a Certificate on the FEIR for the NEIDL because the FEIR "inadequately addressed the consequences of a release of contagious pathogens from the [NEIDL], potentially denying State agencies the opportunity for meaningful review of the environmental impact of such a release and consideration of the measures that would be necessary to mitigate environmental damage." *Allen v. Boston Redevelopment Auth.*, 450 Mass. 242, 257 (2007). Following the Superior Court's decision, then-Secretary Bowles issued a Remand Certificate requiring, among other things, a risk assessment of at least one additional scenario involving accidental or malevolent release of a contagious pathogen, an evaluation of alternative locations, evidence of mitigation, and responses to comments received by BU on the FEIR.

After several years of false starts, incomplete drafts of the supplementary risk assessment, and significant criticism of those drafts and of the entire review process from our clients, other members of the public, and a special committee of the National Research Council (the "NRC

Committee") convened at the request of our clients and Secretary Bowles, BU now submits the SFEIR, asserting that it complies with the Remand Certificate and the court decisions.

Our clients disagree. For the reasons explained below and in the accompanying exhibits, the SFEIR – and the Final Supplementary Risk Assessment approved by the National Institutes of Health ("NIH") on January 2, 2013 (the "RA) on which it relies – are flawed in six significant areas:

1. They fail to meaningfully analyze feasible alternatives to the proposed location;

2. Their analysis of environmental consequences relies on incorrect assumptions and incomplete information, especially with respect to the risks of secondary transmission and malevolent attack;

3. They refer to community outreach mechanisms that do not involve or protect the public;

4. They continue to ignore environmental justice issues surrounding the NEIDL;

5. They fail to address significant issues regarding the safety of transporting hazardous pathogens to and from the NEIDL; and

6. They lack a comprehensive analysis, let alone a sufficient plan, for emergency response and preparedness.

Accordingly, we request that you find the SFEIR inadequate and require BU to file an adequate and comprehensive supplemental final EIR pursuant to 301 CMR 11.08(8)(c)(2).

In addition, we request that you reconsider our client Klare Allen's and the Roxbury SafetyNet's & STOP the BU Bio-Terror Lab Coalition's (the "SafetyNet's") January 29 request to the MEPA Office to utilize independent experts to assist EOEEA and the MEPA Office in their review of the SFEIR. The NEIDL is a unique project and raises issues not typically involved in MEPA review. As Secretary Bowles recognized in 2007 in requesting the assistance of the NRC Committee, special expertise is required to comprehensively and adequately analyze these issues. Further, consistent with your statement in the December 2, 2011, Notice of Project Change ("NPC") Certificate, you are required to independently review the SFEIR and may not rely on federal approval of the RA, or other assurances, in making your decision. Although we have full confidence that you and your staff will review the SFEIR objectively and with the care it deserves, we believe that such expert assistance will allow you to carry out that duty more effectively. Such assistance, especially if coupled with the additional time that a supplement will require and the public participation methods that the SafetyNet suggests in its letter, would also

help assure an anxious public that their government officials have done all they can to make sure the NEIDL's potentially lethal consequences are fully analyzed and mitigated.[1]

Comments Regarding Specific Sections of the RA

The following sections provide our clients' comments on specific portions of Volumes I and II of the SFEIR. Volume III of the SFEIR incorporates the RA in whole. The RA has not been changed or amended since its release in July 2012. In addition, BU, at several places in the first two volumes of the SFEIR, simply refers to the RA to support its conclusions. Accordingly, we incorporate by reference our comments on the draft and final RA submitted to NIH on May 1 and August 24, 2012, copies of which are attached as Exhibits A and B, respectively. Where relevant, we also refer to Plaintiffs' Memorandum of Law in Support of their Motion for Summary Judgment, Expansion of the Record, and Permanent Injunctive Relief that we filed in the federal suit regarding the NEIDL on February 19, a copy of which is attached as Exhibit C (the "Memorandum").

Executive Summary

- **ES-1:** BU describes the history of the NEIDL beginning with NIH's funding award in 2003. Since that time, neither BU nor NIH has attempted to update their analysis of the need for the NEIDL. The RA merely refers to the conclusions of a Blue Ribbon Panel ("BRP") on "Bioterrorism and Its Implications for Biomedical Research" in 2002 that an insufficient amount of BSL-3 and BSL-4 space existed to protect the United States from bioterrorist attack. SFEIR Vol. III at 1-2. The BRP's conclusion has not been reassessed to take into account the intervening proliferation of BSL-4 laboratories, advances in scientific research or changing nature of terrorism risks.

First, as commenters on the RA noted, "bio-safety laboratory space has grown up to twenty-fold since 2011," an increase described by the Government Accounting Office as "unbridled." SFEIR Vol. III at page opposite O-89; *see* SFEIR Vol. III at page opposite O-236 (public comment noting the "proliferation of high level labs" since 2002). BU and NIH have not conducted any analysis of the need for yet more bio-safety space.

Second, advances in scientific research have made it possible to develop cures for important pathogens without the use of live pathogens or BSL-4 laboratory space. In their comments on the draft RA, the Plaintiffs pointed to the *Alternative Vision*, a document that they prepared and submitted to NIH in 2010 suggesting that modern research techniques limited the need for live pathogen research (attached as Exhibit D). The developments in scientific research, and their effects on the need for laboratory research on live pathogens, are also discussed in David Levin, *Limits on Laboratories: The Deadliest Virus*, Harvard Magazine (March-April 2012) (attached as Exhibit E). In that article, Marc Lipsitch, the Director of the Harvard School of Public Health's Center for Communicable Disease Dynamics explains, with respect to the

[1] In its letter to the SafetyNet, the MEPA Office noted that it was infeasible to hire a third-party expert during the SFEIR review process because of time constraints imposed by the MEPA regulations. Those constraints will no longer apply if you find that BU must supplement its analysis to comply with MEPA.

H5N1 virus, that none of the live pathogen research proposals he has seen "would significantly improve our preparational response to a national pandemic of H5N1. The small risk of a very large public health disaster … is not worth taking [for] scientific knowledge without an immediate public health application." He explains that even in labs with the most stringent safety requirements, accidents happen, and a single unprotected researcher could spread the H5N1 virus beyond the confines of the lab. Neither BU nor NIH has conducted a risk-benefit analysis or considered the research they can accomplish without BSL-4 laboratory space.

Third, the BRP's conclusion was reached in the near-hysteria immediately following 9/11 and has not been reconsidered since. Since that time, the United States has encountered ever-evolving terrorist threats and has responded with evolving safety measures. Yet no one has considered whether the BRP's conclusion from 2002 remains appropriate today.

- **ES-2**: BU describes its efforts in preparing the SFEIR as "unprecedented." Even if this is true, as BU itself acknowledges, this is due to the legal challenges filed by our clients as well as criticism from the courts, the NRC Committee, and others regarding BU's FEIR and its subsequent inadequate attempts to prepare an analysis of potential environmental consequences under MEPA or NEPA.

As BU also admits, those comments were "at times critical and unflattering." The NRC Committee was critical of a 2007 draft RA, "finding that it was not sound and credible, did not adequately identify and thoroughly develop worst-case scenarios, and did not contain the appropriate level of information to compare the risks associated with alternative locations." In fact, as a result of that criticism, NIH itself established a BRP in March 2008 to provide scientific and technical advice on the RA. Commenting on a further submission in 2010, the NRC Committee noted that information was insufficient to find that the assessment will "lead to a scientifically and technically sound risk assessment."

BU's and NIH's lengthy process to prepare the RA and the SFEIR may thus be "unprecedented" in the degree of criticism it elicited, but it is not a process for which BU deserves any credit. BU's inability or refusal to prepare an adequate or comprehensive assessment, despite several attempts, emphasizes the rigorousness with which you should review the SFEIR, as well as the benefits to EOEEA and MEPA of utilizing experts to assist in that review.

Chapter 1

- **1-1:** Our clients, and other members of the public, first learned of Boston Medical Center's ("BMC's") divestment from the NEIDL in November 2012 from an article in the Boston Business Journal. *See* Craig Douglas, *Boston Medical Center quietly transfers ownership in infectious-disease lab to Boston University*, Boston Business Journal (Nov. 13, 2012) (attached as Exhibit F). That divestment was not disclosed in the draft RA in February 2012 or the final RA in July 2012. Although it is referenced in the SFEIR, BU attempts to minimize its effect, noting "[t]his action has not caused any change in the NEIDL leadership team, and there are no changes in the approvals and oversight required for the research that takes place in the

NEIDL. Boston Medical Center will continue to be available as needed to provide emergency medical care." However, BMC's divestment undercuts BU and NIH's repeated reliance on the BMC for emergency support in the event a NEIDL employee or visitor is infected with a dangerous pathogen. In response to the Massachusetts Nursing Association's concerns regarding the BMC's ability to respond to an outbreak of the pathogens proposed for use at the NEIDL, NIH referred to BMC's resources and cooperation with BU over NEIDL operations. SFEIR Vol. III at O-104; *see* SFEIR Vol. III at B-4; A-18 (describing BMC's role in the NEIDL's compliance with the Boston Public Health Commission's ("BPHC's") Disease Surveillance and Reporting Regulation). Such references falsely implied that BMC was still actively involved in the project. Where BMC divested the NEIDL more than two years ago, it is impossible to determine whether it still will be willing and able to respond to outbreaks from the NEIDL as described in the RA, or even whether it was asked about its current capacity to do so.[2] BU should be required to provide more detail regarding BMC's divestment to EOEEA, permitting agencies and the public.

- **1-5:** BU states "[o]nce the Certificate on the SFEIR is issued, research at BSL-3 and BSL-4 will be allowed to proceed only following the receipt of all required Federal, State, and Local approvals." This language appears to assume that the grant of a certificate is a foregone conclusion. As you correctly explained in the NPC Certificate, you must "independently review" the document pursuant to the SJC's decision and cannot delegate that authority to any other agency or certify the SFEIR on an "expectation that the issues inadequately analyzed will later be adequately analyzed in a federal EIR." For the reasons explained in this letter, our clients believe that granting a Certificate following your independent review would be inappropriate, arbitrary and capricious.

- **1-12:** BU acknowledges that the NPC Certificate required it to address the Metropolitan Area Planning Council's ("MAPC's") concerns regarding the transport of hazardous materials to and from the NEIDL. In addition, our clients raised similar concerns in the past regarding the handling of pathogens if and when they are shipped by air to Logan Airport. However, rather than substantively addressing those concerns, the SFEIR refers to the entirety of the RA's transportation analysis. For the reasons explained in our comments on the RA, that analysis is inadequate and incomplete. *See* Exhibit A at 10. BU's failure to directly address these issues in the SFEIR and inform the public of how it has taken account of the MAPC's comments violates MEPA.

- **1-17:** The SFEIR lists categories of permits that must still be acquired to operate BSL-3 and BSL-4 areas of the NEIDL, including a sewer discharge permit and undefined permits and approvals from the BPHC and the National Centers for Disease Control ("CDC"). Our clients have long been concerned with the lack of transparency regarding the long-term oversight for the NEIDL given the highly contagious and potentially lethal pathogens proposed for study. The SFEIR does nothing to clarify what approvals the BPHC and the CDC will be responsible for or, in particular, the BPHC's capacity or expertise to issue such approvals in the absence of any

[2] We have submitted a Public Records Request to EOEEA regarding its knowledge of the BMC divestment and are currently coordinating with EOEEA counsel to receive documents in response to that request.

prior experience regulating a similar facility. BU must explain more clearly BPHC's role throughout the life of the NEIDL and its authority and ability to play that role.

In addition, we have previously stated our concerns with the BPHC's lack of transparency, especially in light of the inclusion of BU executives on its Board. For instance, a public records request to the agency was not answered for nearly a year and a half, and only after substantial prodding from our office. Further, given the recent scandals involving the Commonwealth's regulation of pharmaceutical facilities and the State Crime Lab, it is difficult for our clients and other community members to take seriously BU's unfounded assurances that state or local health agencies have the experience or resources to regulate an entirely new type of research never before sited in the Commonwealth.

Chapter 2

- **2-3:** BU acknowledges that BSL-4 modules at the NEIDL "will support research on agents with no known prevention or treatment" and that all of the pathogens to be studied in those areas "are found on the Centers for Disease Control and Prevention (CDC) select agent list." This statement underscores the potential risks of the project and the need for a thorough and meaningful analysis of them. As then-Superior Court Judge Gants previously stated, this project "is no ordinary project, and the potential risks it poses to the environment and public health are extraordinary and, potentially, catastrophic." *Ten Residents of Boston*, 2006 WL 2449943 at 10. BU's statement also underscores the need for EOEEA and MEPA to utilize expert assistance to analyze these risks before issuing a decision on the SFEIR.

- **2-4:** BU poses the "adjacency" of BSL-2 and BSL-3 laboratories to nearby BioSquare Research Park facilities as a benefit of the NEIDL as it "will increase productivity for researchers and lab workers." However, a poorly delineated line between the NEIDL and other BU laboratories could potentially compromise the safeguards that BU asserts will protect nearby communities from a pathogen release. BU should be required to explain how it will prevent the unauthorized transition of pathogens from the NEIDL to less secure facilities and the risks that transfers between these facilities may create. It should also be required to commit to enforceable mitigation measures preventing such unauthorized transfers.

- **2-4:** The SFEIR describes office and support space that will be used for various tasks including "glassware cleaning," "materials handling" and "housekeeping." As we explained in comments to NIH in May 2012, the RA assumes that facility employees will be either laboratory workers with access to pathogens or administrative workers without such access, and fails to account for other workers, including maintenance and janitorial staff. We noted that such workers may have access or exposure to pathogens in conducting their jobs and are likely to be less familiar with the proper procedures for handling them. Exhibit A at 8. In response, NIH dismissed those comments, claiming that such staff will have appropriate training before entering BSL-3 or BSL-4 areas. However, the SFEIR's description of work to be done in office and support space includes tasks that could expose these workers to contaminated wastes or materials, without the protections purportedly in place in BSL-3 or BSL-4 areas. A contaminated maintenance worker is not only less likely to know how to handle pathogens, but

also less likely to know the symptoms of infection. BU must explain how it will protect those workers, their communities, and the people with whom they come in contact during their commute.

Chapter 3

This chapter purports to describe only the process for selecting the alternatives to the proposed site analyzed by BU and NIH, reserving the full analysis of those alternative sites to the RA. As set forth in greater detail in our letters to NIH and the Memorandum, that analysis of alternatives is based in large part on unsupported assumptions and incomplete information, is improperly biased towards the selection of the Boston location, and ignores feasible alternatives put forth by our clients and other community members.

- **3-1, 3-2, 3-4:** BU makes clear that the NIH grant for the NEIDL did not include funding for site acquisition and that "[t]his significant constraint on funding limited Boston University to considering only sites which it owned or controlled." The second sentence of its description of the Tyngsborough location states: "The University no longer owns the site." Elsewhere the SFEIR reveals that this sale took place in 2008.

BU cannot in good faith claim that it analyzed a site as an alternative location when it sold that site in the midst of preparing an alternatives analysis for both the RA and the SFEIR. Based on BU's explanation of NIH's grant, the Tyngsborough location is *not* a feasible alternative. BU's analysis of this site does not meet the Secretary's prior requests for an alternatives analysis or the SJC's endorsement of that request. *Allen*, 450 Mass. at 259. Instead, it confirms what our clients and other community members have always hoped was not the case: that BU and NIH are not interested in analyzing alternative locations or uses for the NEIDL, regardless of the consequences at the Boston's location. The fact that the Tyngsborough site may have been a feasible alternative in 2002 does not help. BU cannot remedy the failure to address any alternative locations in the FEIR by addressing an obsolete alternative.

- **3-4 to 3-6:** The remainder of Chapter 3 explains how BU considered alternatives to propose to NIH in 2002. BU highlights that it considered "Tier 2" screening criteria to determine which of the three sites to propose. Most of these criteria, of course, favor the Boston location, including access to interstate systems and other research facilities. BU states that only the Boston site "met all eight of the screening criteria." This discussion, however relevant it was for selecting the site to propose to NIH for funding, has little relevance to the issue of feasible alternatives for the SFEIR. Thus, when BU declares that the Tyngsborough, MA and Peterborough, NH sites "were ranked significantly lower in every respect, with no offsetting benefits to be obtained," it is discussing only the factors it chose to consider for its project. The "offsetting benefit" of reduced risks to surrounding communities and the environment is not considered. This discussion of selected alternatives, although a belated clarification of a question asked over a decade ago, should not inform the Secretary's analysis of the adequacy of the alternatives analysis. It is simply not meant to address that analysis.

- A discussion of the effects of climate change on the NEIDL is absent from both the SFEIR and the RA. This omission is reckless in light of the effect of recent storms on major metropolitan areas. In the wake of Hurricane Sandy in 2012, sea level surges were reported at 15-17 feet in coastal areas of New York City. The NEIDL sits near Fort Point Channel only 7-8 feet above sea level. We also understand that it sits over an underground canal. At the very least, BU should be required to explain the potential effects of a storm surge on the building and the pathogens housed there.

Chapter 4

- This chapter, like Chapter 3, refers the reader to the RA for an analysis of the NEIDL's environmental consequences. As discussed in our letters to NIH and the Memorandum, the RA's analysis of the consequences of a pathogen release, although lengthy, is rife with baseless assumptions, especially with respect to the probability of malevolent attacks. It also rests on incomplete information regarding, among other things, the risk of secondary transmission and mitigation measures.

- **4-3:** BU boasts that the RA "consists of over 2,700 pages and took more than three years to produce." As explained in our comment letters to NIH, quantity does not equal quality. In fact, the dense and meandering RA is virtually incomprehensible to the lay reader and thus fails to serve its purpose of informing the public of those risks. Further, as explained above, NIH did not take three years to prepare the RA because of extreme diligence or cautious research. Instead, that time was required because every draft of the document, or pieces of it, presented to the NRC Committee was harshly – and justly – criticized.

- **4-5 to 4-8:** This portion of the SFEIR, rather than clarifying to you or the public the results of the RA's analysis of environmental consequences, is an unnecessary listing of all BRP members and other irrelevant information such as the pre-World War II history of the NRC. This information has no bearing on your review of the SFEIR and appears included only to provide a veneer of credibility for a separate document barely discussed in the SFEIR.

- **4-9:** BU acknowledges that the RA addresses laboratory-acquired infections, which it defines as infections as "a result of laboratory related activities with a pathogen." As explained above, this analysis omits how non-laboratory workers at the NEIDL (and their communities and other members of the public) may be exposed to pathogens used at the NEIDL.

- **4-11:** The SFEIR states "[t]he risk to the public of direct infection resulting from an earthquake is beyond that reasonably expected to occur for all pathogens except Rift Valley Fever virus. Even that risk was found to be highly unlikely." This conclusion, and its underlying bases, was addressed in our comments to NIH. *See* Exhibit A at 8-9. Seismologist John E. Ebel reviewed the draft RA on our clients' behalf and found numerous flaws in its analysis of earthquake risks. Although some of those flaws were addressed in the final RA, NIH generally maintained, that since the NEIDL complies with the Massachusetts Building Code, it sufficiently addressed those risks. Of course, the Massachusetts Building Code was not designed

for the sorts of risks raised by the NEIDL. The SFEIR's reliance on the RA assessment should be supplemented regarding this issue.

- **4-11:** This page states the RA's ultimate conclusion that, although there are differences in risk between the three sites, "they were small in comparison to the range of probabilities for each of the sites" and impacts on medically vulnerable populations and environmental justice communities were also small. In a paper submitted to the MEPA Office on February 1, 2013, a copy of which is attached as Exhibit G (along with his *Curriculum Vitae*), Dr. Lynn Klotz critiqued a fundamental assumption underlying this analysis. That assumption, which underlies the RA's computer modeling is the following:

> A simulation of the synthetic population on a single day (a weekday in the Spring) spending time in various activity locations, such as homes, offices, and schools, was used to estimate the number of contacts of at least 10-minute duration for each individual.

SFEIR Vol. III at L-18. Based on this assumption, NIH then determined the "average number of contacts" for a person in the single zip code at the Boston Location, suburban location (Tyngsborough), and rural location (using Ashby, MA as a substitute for Peterborough, New Hampshire). It concluded that a person would have an average of 44.0 contacts at least 10-minutes or more in the urban location, 37.6 in the suburban location and 20.83 in the rural location. *Id.* at L-18-19. It then uses these numbers to model the potential for secondary transmission at each of the three sites, arriving at the conclusion that there is little difference in that risk between an urban, suburban and rural site. *Id.*

NIH, however, does not explain why the number of 10-minute contacts should be based only on the population of a zip code. Boston has 37 zip codes. Contacts with the populations of multiple zip codes is far more likely there than in a rural or suburban area. Moreover, NIH offers no support whatsoever for its assumption that infections require at least ten minutes of contact. In fact, it acknowledges that "the relative importance of brief, casual contacts compared to more intimate contacts during historical outbreaks has often been unclear." *Id.* at L-17. Those contacts are more likely to last less than ten minutes and to occur on public transportation or a crowded urban sidewalk. NIH's assumptions improperly equates the risks of infection between locations and leads to the nonsensical conclusion that one is just as safe from an outbreak in a sparsely populated hamlet as in a major city.[3]

Chapter 5

- **5-3:** The SFEIR lists "effective controls" as a mitigation measure to the risk of a pathogen release. These controls include training employees, "providing suitable and appropriate alarms," establishing safety barriers, and containing hazards if barriers fail. This vague description of safety and mitigation measures affirms our clients' concerns that BU does

[3] Chapter 4 of the SFEIR includes a copy of the RA's "Reader's Guide," which summarizes the RA. When NIH issued the Readers' Guide it stated that it was not accepting public comments on it. In any event, we refer to our comments on the RA itself.

not have a sufficient plan in place in the event that a pathogen is released or a laboratory worker is infected. Assuring the public that it is BU's policy to train employees, place alarms in the NEIDL, and contain hazards is not a sufficient mitigation measure: it is the bare minimum that can be expected in any laboratory, let alone one handling on some of the world's most dangerous pathogens.

- **5-7:** BU relies heavily on what it describes as a "culture of safety," including training, reporting, and "shared responsibility for safety" among laboratory workers. Although such a culture is necessary, it does not prevent the possibility of human error or malicious activity at the NEIDL, as BU appears to assume. In fact, the RA concedes that the culture of safety is "nebulous." SFEIR Vol. III at 2-2. BU also acknowledges that "[h]umans are fallible, and mistakes have the potential to compromise any of the safeguards of the laboratory." SFEIR Vol. I at 5-11. Given the potential risks involved at the NEIDL, reliance on a culture of safety is a necessary but far from sufficient mitigation measure.

- **5-8:** Among the security protocols, BU lists requirements that all researchers provide written confirmation that they are adequately trained and will follow safety requirements and that a laboratory safety coordinator will be appointed. These are basic OSHA requirements that apply to all levels of laboratories. 29 C.F.R. § 1910.120. With the higher risks at this laboratory, more stringent measures are necessary.

- The Institutional Biosafety Committee ("IBC") review process described in this section makes clear that the most significant oversight of the NEIDL will come from an internal BU entity without any community input or regulatory oversight. Thus, despite all of the concerns raised by community members over the past decade, the NEIDL will be largely self-regulated. To the extent the BPHC will have some oversight roles for the NEIDL that oversight will come with no expertise or experience in regulating BSL-4 facilities.

- **5-20:** BU begins its discussion of "community relations" by citing the NEIDL charter that "community engagement in the NEIDL is important to the success of its missions." However, as our clients and other community members have documented to your office over the years, these words have not been matched by action. The SFEIR and the RA refer to various community meetings as proof that BU and NIH have engaged the communities surrounding the proposed NEIDL location. However, neither document explains how that community input influenced the NEIDL proposal. To the contrary, as explained above, the RA and the SFEIR reveal that the decision to site the NEIDL at its current location has been irreversible, regardless of community opposition or comments.

- Chapter 5 describes the Community Liaison Community ("CLC") as BU's principal means of connecting with the communities that would be affected by the NEIDL. As stated in our comment letters to NIH, our clients and other community members have found that the CLC does not in fact communicate with them and have had their applications to join the CLC either rejected or ignored. In addition, the CLC's meetings, which are held at 9:30 a.m., are not accessible to most members of the public. Only after years of urging by our clients and others

has the CLC placed minutes of its meetings online. The CLC has been an inadequate community involvement mechanism.

Appendix 3: Proposed Section 61 Findings

BU's proposed Section 61 Findings for the Massachusetts Department of Transportation ("DOT") focus entirely on the NEIDL's impact on traffic patterns. As the MAPC and our clients have made clear in previous public comments on the FEIR and BU's 2011 request for a waiver, the NEIDL raises significant concerns with respect to the transportation of hazardous materials. Risks involved in the transport of biological agents are addressed by the MEPA regulations (301 CMR 11.07(6)(h)) and the federal government (*See* 67 Fed. Reg. 157, p. 53131 (Aug. 14, 2002)), but remain largely unaddressed in the SFEIR and the proposed DOT findings. The MAPC, our clients and others noted that the FEIR and the RA do not address the specific patterns in Boston or the fact that a delivery vehicle probably would have to travel over bridges and through tunnels to reach the NEIDL. SFEIR Vol. II at A4-30, 39 (comments of MAPC); A4-33 (comments of Jessie Partridge); A4-35 (comments of Watertown Citizens for Environmental Safety and comments of the SafetyNet and ACE); Exhibit A at 10. These unique features of Boston's roadway system could affect the potential for a malevolent attack on the transport vehicle and the emergency response time of first responders to a crash involving the release of pathogens.

Appendix 4: Responses to Comments on the FEIR

- BU provides a chart purporting to respond to comments made on the FEIR that are relevant to the SFEIR. The bulk of BU's responses, however, refer to entire chapters of the RA, some of which are hundreds of pages, without any explanation of how those chapters answer the particular comments.

- **A4-9:** In 2004, the SafetyNet and ACE requested that a Supplemental FEIR address the criteria for locating a lab in a densely populated environmental justice ("EJ") community. Central to this request were those organizations' concerns with the EJ consequences of the NEIDL. The NEIDL is located in a recognized EJ community (*see* MassGIS Environmental Justice Viewer map of Harrison Avenue, attached as Exhibit H) and surrounded by others, and thus triggers additional MEPA requirements pursuant to EOEEA's EJ Policy. First, because the NEIDL is within a mile of an EJ population and exceeds ENF thresholds, Paragraph 14 of the Policy requires you to provide enhanced public participation. As explained in this letter and our previous ones, BU's pattern of incomplete disclosures and avoidance of meaningful community dialogue do not meet this requirement. Second, Paragraph 15 of the EJ Policy requires enhanced analysis of impacts and mitigation under MEPA. The Policy provides that this analysis could include, among other things, data on baseline public health conditions as well as an analysis of site planning and operational alternatives.

As described throughout Exhibits A and B, the RA lacks such information and ignores feasible alternatives proposed by the public. In our first comment letter, we noted that the draft RA inadequately addressed the NRC's 2011 comments that the document included statements that "imply that the major concern in [the EJ] area is differences in population density among

sites." In response to our comments, NIH offered a list of citations in the RA where medically vulnerable subpopulations are discussed. SFEIR Vol. III at O-102. As important as discussion of MVSPs may be, it is no substitute for an analysis of environmental justice issues involved in siting the NEIDL in the midst of densely-populated environmental justice communities.

Further, as explained in those letters, the data required to engage in a meaningful discussion on environmental justices issues was not beyond NIH's or BU's reach. The effects of factors such as density of dwelling units, public transportation use and commuting patterns are knowable; they can be documented through census data and transportation and sociological study. Such data would likely demonstrate that individuals with lower economic status are more likely to live in densely populated dwellings (including subsidized housing) and to use public transportation more frequently than individuals with a higher economic status. These factors bring individuals into contact with others, including potentially infected NEIDL workers, more frequently than individuals residing in single-family housing or commuting in personal vehicles. Similarly, where the RA points to a lack of published data on the effect of particular pathogens on environmental justices communities, it could have at least attempted to extrapolate from data on similar diseases or symptoms to understand the effect of secondary transmission on these communities. Such an analysis is integral to a proper comparison of alternatives.

- **A4-21:** In November 2004, the Newton Department of Planning & Development commented that the FEIR should include a discussion of the regional impact of a pathogen release, including regional emergency responses. It also asked that the FEIR address, among other things, hijacking, agent transportation, waste disposal and animal carcass disposition. As explained above, the comments regarding transportation safety have largely gone unaddressed. Further, the SFEIR and the RA both ignore the NRC Committee's urgings to conduct a more detailed "fomite carry-out" analysis. Instead, the RA distinguishes the NEIDL from agricultural research facilities in an attempt to show that such an analysis is not necessary. SFEIR Vol. III at 4-16. Given the NRC Committee's and surrounding communities' urgings, and the potential use of fomites as a vehicle for malevolent attack, the lack of analysis on this issue is unjustified.

- **A4-29:** In response to a directed question as to how community members will be notified of an accident at the facility, whether a quarantine will be necessary, and whether treatment will be available, BU responds that "BUMC has an excellent working relationship with external emergency response agencies" and refers the reader to Appendix 7 for more details on emergency response. For the reasons explained below, Appendix 7 fails to provide the necessary information to answer these questions. More fundamentally, our clients, and other community members remain deeply concerned that after nearly a decade BU cannot answer three basic questions: (1) Who will contact the community in case of an emergency? (2) How will that entity contact them? and (3) Who should community members call if a problem arises with the operation of the NEIDL? The public is entitled to answers to those questions.

Appendix 5

- **A5-7:** In response to a comment by Dr. Klotz regarding the potential spread of a contagious disease due to lab-worker infection, BU states that the "*Culture of Safety*" and

numerous other protective measures have been adopted specifically to avoid an event where a lab worker could spread a 'contagious disease' outside of the Laboratory." As noted above, although a culture of safety is important, it does not foreclose the possibility of human error or malevolent activity. This is an insufficient response to Dr. Klotz's comments that were based on specific, documented escapes of the SARS virus from a BSL-3 laboratory.

- **A5-8:** Boston City Councilors Tito Jackson, Felix Arroyo, Charles Yancey and Ayanna Pressley expressed concern that, since the NEIDL is an integrated facility with BSL-1 through BSL-4 lab spaces, work done in non-BSL-4 spaces could easily involve much more high-risk material than would be the case at lower-security laboratories. BU responds that federal and state regulations mandate which laboratories must be used for particular types of research. That response ignores the active debates in the scientific community over the correct BSL for the study of certain pathogens. It is also inconsistent with our own communications with the Massachusetts Department of Public Health ("MDPH"), which conceded that it cannot even identify the location of BSL-2 and BSL-3 laboratories in Massachusetts or the research conducted in them.

- Several commenters noted BU's failure to disclose pathogen releases from BU in the past, in particular releases of tularemia and Neisseria meningitides. BU once again refers to the "*Culture of Safety*" in response. The RA's and the SFEIR's failure to address these documented releases, and why they would or would not be likely to recur at the NEIDL, continues BU's practice of concealing embarrassing facts from public view.

Appendix 7: Comprehensive Emergency Management Plan ("CEMP")

- The CEMP focuses on known emergencies such as spills or natural disasters. It does not address response to infection of a NEIDL employee that is not immediately detected or an undetected theft or loss of pathogens from the NEIDL. The CEMP therefore does not address significant concerns regarding those risks or others identified by our clients and acknowledged by the SJC. *Allen*, 450 Mass. at 256-257 ("The final EIR failed to analyze the likely damage to the environment caused by the release of a *contagious* pathogen, whether through laboratory accident, escape of an infected research animal, theft, terrorism, or transportation mishap, which is a critical consideration in a densely populated urban area.") (emphasis in original, footnote omitted).

- **15-16:** BU asserts that it worked with the Boston Fire Department to establish the NEIDL's fire safety features and "ensure a full line of communications." However, City Councilor Yancey testified at the hearing on the draft RA that Boston Police and Fire Department officials had made it clear to him that the City is not equipped to respond to an emergency involving the NEIDL. BU's vague assurances that "[a]s the NEIDL is brought online, joint emergency planning, training, and tabletop and full-scale exercises will be conducted with Boston University and NEIDL staff and Boston emergency responders," do not explain whether Boston officials believe that training will be adequate or even know about it.

- **16-17:** Many of the items on the list of "Planning Assumptions" regarding safety and security are vague and conclusory. For instance, BU states "[w]hen properly implemented, these [emergency management] plans will reduce or prevent disaster-related losses" and BU "officials recognize their responsibilities with regard to research and community safety." Of course, such statements do not explain what happens when plans are not properly implemented or what responsibilities BU officials recognize. To list them as "planning assumptions" assumes away human error, lack of experience and other factors, providing little assurance that the CEMP will sufficiently protect the surrounding communities.

- **34-35:** This section of the CEMP, which explains the response plan for various scenarios, provides insufficient detail regarding the fundamental questions described earlier: (1) who will notify the affected community? (2) how will they be notified? and (3) who should community members call if there is a problem with operations at the NEIDL? The CEMP may conceivably protect NEIDL employees, but it offers no security to members of the surrounding community. The alphabet soup of response teams, planning centers, and BU entities involved in the CEMP makes it more difficult to identify clear answers to these questions. *See, e.g.*, SFEIR Vol. II, Appendix 7 at 49 (chart listing various members of ERT).

- **38:** The CEMP proposes that NEIDL Emergency Response Team be "comprised of individuals with expertise in" among other things, "BSL-4 Lab Operating Procedures" and "BSL-4 Emergency Response Plans." Because the NEIDL would be the first BSL-4 in Boston, however, it is not clear how and when such individuals will be identified and trained.

- **79-126:** These pages of the CEMP provide a chart describing, among other things, potential scenarios affecting the NEIDL, mitigation measures that BU proposes to counter those scenarios or limit their effect, and the consequences for the surrounding community. The most common description of the effect on the surrounding community is a dismissive "No expected outcome regarding safety of surrounding community." This description is implausibly applied to a variety of occurrences, including earthquakes, floods, hurricanes, total loss of the BSL-4 breathing air system, breakage of lab equipment or supplies, gas leaks, failure of the HVAC system, incidents during select agent transport, suicide threat or attempt, violence, suspicious packages, hostage situations, fires or explosions, chemical spills, biological spills and biological exposure.

The "no expected outcome" conclusion is inappropriate for several reasons. First, many, if not most, of those scenarios could result in a possible loss or theft of pathogens from the NEIDL and secondary transmission throughout the surrounding communities. Second, as explained in our letters to NIH, violent acts would presumably target not only the NEIDL, but the densely populated communities surrounding it. Third, BU's acknowledgment in the CEMP that it will need the assistance of public first responders during these situations ignores the fact that, during a natural disaster or a major malevolent attack, first responders will have limited capacity to respond to the NEIDL. BU's listing of scenarios in the CEMP is thus not a fair or realistic assessment of the potential impacts of these events.

- **81:** The CEMP states that the NEIDL does not fall into any special flood zone, but that minor flooding may be possible. However, the SFEIR and RA do not analyze the impact of significant storm surges such as those caused by Hurricane Sandy or the effect of rising sea levels or more intense storms in the future. Because of the NEIDL's location, such an analysis is required.

- **109, 110:** The CEMP describes the potential for a "serious injury" resulting in a "medical emergency" or a "serious injury in containment" due to equipment failure, human error, or a severe animal bite/scratch. It then describes those injuries as having "no expected outcome" for the community. However, given the pathogens proposed for use at the NEIDL, there is no basis for dismissing the secondary effects of such an injury, including the secondary transmission of a pathogen to other NEIDL employees or the broader community.

- **115, 118:** BU lists, without further description, a "possible community outcome" due to terrorism, as well as traffic, police, and media presence. In connection with a bomb or suspicious package, it notes that the "[c]ommunity may be impacted by road closings and media interest." These are patently insufficient descriptions and analyses of some of the most consistent and frightening concerns of community members regarding the NEIDL over the past decade. As both our clients and the courts have made clear, BU cannot dismiss the possibility of a malevolent attack on the NEIDL or assume that such an attack will not affect the surrounding neighborhoods.

Conclusion

For the reasons explained above and in the attached documents, BU's latest submission constitutes a *post-hoc* rationalization of an ill-conceived idea, rather than an honest analysis of alternatives and consequences. The SFEIR, and the RA underlying it, do not reflect community, judicial and expert comments made over the last decade. Instead, they demonstrate that BU still has not fairly or thoughtfully considered why a project involving dangerous research like the NEIDL can or should be located at the intersection of two of Boston's most densely populated neighborhoods.

We request that you find the SFEIR inadequate and require BU to file a comprehensive and adequate supplemental final EIR pursuant to 301 CMR 11.08(8)(c)(2). We also request that you utilize experts to assist in the review of any future SFEIR and utilize the public involvement mechanisms suggested in the SafetyNet's January 29, 2013 letter.

Thank you for your consideration.

Sincerely,

Jennifer S. Rushlow
Conservation Law Foundation

Arthur P. Kreiger
Anderson & Kreiger LLP

Laura Maslow-Armand
Lawyers Committee for Civil Rights Under Law of the Boston Bar Association

c: Governor Deval Patrick
Senator Elizabeth Warren
Senator William "Mo" Cowan
Representative Stephen Lynch
Representative Edward Markey
Mayor Thomas M. Menino
Maeve Vallely-Bartlett, MEPA (by email only)
Gary Davis EOEEA (by email only)
Secretary Richard Davey, Massachusetts DOT
Commissioner Kenneth Kimmell, Massachusetts DEP
Carolyn Fiore, MWRA
Seth Jaffe, Esq. (by email only)
Klare Allen, The SafetyNet (by email only)
Mel King (by email only)

MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue, Building 39
Boston, MA 02129

Frederick A. Laskey
Executive Director

Telephone: (617) 242-6000
Fax: (617) 788-4899
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BG

February 22, 2013

RECEIVED
FEB 25 2013
MEPA

Mr. Richard Sullivan, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge St, Suite 900
Attn: MEPA Office, William Gage
Boston, MA 02114

Subject: Supplemental Final EIR, EOEEA #12021
BioSquare Phase II, Boston

Dear Secretary Sullivan:

The Massachusetts Water Resources Authority (MWRA) appreciates the opportunity to comment on the Supplemental Final Environmental Impact Report (FEIR) for the BioSquare Phase II Project submitted by the Trustees of Boston University (BU) on behalf of the Boston University National Emerging Infectious Disease Laboratory (NEIDL), (the Proponent). The NEIDL at BioSquare Research Park was constructed by BU in 2011 and is a 7-story 192,000 square foot national bio-containment laboratory facility located at 620 Albany Street in Boston's South End. The facility has been designed to perform research at Biosafety (BSL) Levels 2 through 4. The facility is currently operational and permitted to perform research at Level 2 only.

The Supplemental FEIR includes additional information on matters specifically requested in the Secretary's Certificate. The matters include: the identification and evaluation of alternative locations for siting the laboratory in a less densely populated area; the evaluation of at least one "worst-case" scenario involving the release of a contagious pathogen from the laboratory, the identification of any material differences in public health impacts from a worst–case release scenario between the proposed site and two alternative sites; responses to all comments on the FEIR that fall with the scope of the Supplemental FEIR; draft Section 61 findings on outstanding state permits or actions; and identification of mitigation measures associated with the project.

MWRA's comments focus specifically on issues related to discharge permitting required within the Toxic Reduction and Control (TRAC) Department.

Currently, the Proponent holds an MWRA Sewer Use Discharge Permit #45403758, (permit), MWRA Category 02, Significant Industrial User (SIU), issued on February 28, 2012. This permit authorizes the discharge of wastewater from the BSL-2 Low Level

Research Laboratory or lower rated operations. The permit authorizes the discharge of process wastewater from its laboratory operations, glassware washrooms, cage washroom, and darkrooms through a pH neutralization system. On a quarterly basis, the Proponent must sample its laboratory wastewater from Sample Location 0101 and follow the permit sampling and reporting requirements for Chromium (total), Copper (total), Lead (total), Mercury (Total), Nickel (Total), Silver (Total), Zinc (Total), Formaldehyde, Phenol, pH, TTO Volatile Organic Fraction, and Flow. The laboratory wastewater sample must discharge via a pH neutralization system through Sample Location 0101 and the Proponent must measure its daily discharge flow in gallons per day (GPD).

The most recent MEPA Certificate allows for the discharge from BSL-2 Low Level Research Laboratory or lower rated operations. At this time, the Proponent wishes to operate the laboratory at the BSL-3 and 4 levels and will need a revised Sewer Use Discharge Permit for BSL-3 and BSL-4 research from MWRA. Staff from MWRA's TRAC Department has made the Proponent aware of the permit process for BSL-3 and 4 and MWRA expects to receive a permit application once the MEPA process is complete.

The permit application must include detailed descriptions of each waste stream that is proposed for sewer disposal from BSL-3 and BSL-4 operations, including, but not limited to, the waste streams from laboratory sinks, decontamination showers, heat sterilization units (autoclaves), tissue digestion, auto-analyzers or other laboratory equipment, wet cleaning operations of surfaces, including floors, and automatic dish/equipment washers. The detailed information should include the estimated volume of waste from each source, the chemical constituents making up the waste stream including estimates in mg/L of priority pollutant metals, toxic organics (VOAs and ABN's, formaldehyde), BOD, TSS, fats, oils and greases, and pH (in standard units). The application should also include a description of the proposal for disposing of the waste from tissue digester(s) that will ensure it can meet all of MWRA's and BWSC's applicable limits.

Finally, the application should include a detailed description of the processes in place to ensure that the wastewater being proposed for discharge is in compliance with MWRA' prohibition (pursuant to 360 CMR 10.023(18)) of any substance containing pathogenic organisms in such quantities as determined by local state and/or federal law as hazardous to the public health or environment, including but not limited to any "Infectious or Physically Dangerous Medical or Biological Waste" as defined and identified by the Massachusetts Department of Public Health in its regulations entitled " Storage and Disposal of Infectious or Physically dangerous Medical or Biological Waste, State Sanitary Code Chapter VIII," at 105 CMR 480.010, and whose disposal via the municipal Sewerage System is prohibited by 105 CMR 480.200.

Should you have any questions or require further information on these comments, please contact me at (617) 788-1165.

Very truly yours,

Marianne Connolly

Marianne Connolly
Sr. Program Mgr, Env. Review and Compliance

cc: Stephen Buczko, MWRA, TRAC
Kattia Thomas, MWRA TRAC
Paul Canavan, BWSC

C:MEPA/12021BioSquareFinalSuppEIR.doc

Gage, Bill (EEA)

From: Valley Bartlett, Maeve (EEA)
Sent: Monday, February 25, 2013 10:45 AM
To: Gage, Bill (EEA)
Subject: FW: time for review

From: Duckworth, Eleanor [mailto:eleanor_duckworth@gse.harvard.edu]
Sent: Wednesday, February 20, 2013 11:16 PM
To: Valley Bartlett, Maeve (EEA)
Subject: time for review

Dear Maeve Vallely-Bartlett and Rick Sullivan--

It is not reasonable to expect members of the public to read and prepare responses — in less than one month -- to the 2000+ pages of BU's Final Supplemental Environmental Impact Review of their BSL4 lab.

The time for public review needs to be extended. There needs to be a public hearing. Third party experts need to be called upon to evaluate the risk assessment.

Without these steps there is no way that the review process could be considered legitimate.

We count on hearing, within the next two days, the announcement of an extension. We expect to learn, soon afterward, that a public hearing has been scheduled. And we would be very happy to assist in locating third parties to evaluate the risk assessment.

We are concerned both for ourselves, living so close the potential source of a biological disaster, and for our fellow citizens who are its immediate neighbors. We look forward to your response.

Sincerely yours,

Eleanor Duckworth,
For Cambridge United for Justice with Peace

Gage, Bill (EEA)

From: Valley Bartlett, Maeve (EEA)
Sent: Monday, February 25, 2013 10:34 AM
To: Gage, Bill (EEA)
Subject: FW: BU Biolab
Attachments: BU Biolab letter.docx

From: Judy Clark [mailto:Judy.Clark@umb.edu]
Sent: Friday, February 22, 2013 5:27 PM
To: Valley Bartlett, Maeve (EEA); Sullivan, Rick (EEA)
Subject: RE: BU Biolab

February 22, 2013

Director Maeve Vallely-Bartlett

Massachusetts Environmental Protection Agency

RE: National Emerging Infections Diseases Laboratories (NEIDL)

Dear Director Maeve Vallely-Bartlett,

I am writing to add my support to the many voices calling for extension of time in the review process of the proposed BSL4 lab. With such a contentious process so far, there needs to be a vigorous effort to restore our faith that the responsible agencies are engaging the community in a transparent process where the goal is to protect the health and safety of the people of Massachusetts.

There are major concerns that need to be addressed. Existing reports do not address the cumulative risk or the largest risks that the work of this type of lab poses. Third-party experts need to evaluate these risks and report their findings to the public.

Mounting evidence from current events indicate that the Boston Public Health Commission (BPHC), which bears the responsibility for regulating the NEIDL, does not have the expertise or manpower to oversee the safe operation of current labs that are not as complex or dangerous as the BSL4 lab. How can we feel safe when this is the case?

Please consider the health and safety of all Massachusetts residents as the highest priority in making your decision.

Sincerely,

Dr. Judith Clark

University of Massachusetts at Boston, Retired

81 Orchard St.

Cambridge, MA 02140

cc Secretary Richard Sullivan?

Executive Office of Energy and Environmental Affairs

Rick.sullivan@state.ma.us

February 22, 2013

Director Maeve Vallely-Bartlett

Massachusetts **E**nvironmental **P**rotection **A**gency

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Please consider the health and safety of all Massachusetts residents as the highest priority in making your decision.

Sincerely,

Dr. Judith Clark

University of Massachusetts at Boston, Retired

81 Orchard St.

Cambridge, MA 02140

cc Secretary Richard Sullivan

Executive Office of Energy and Environmental Affairs

Rick.sullivan@state.ma.us

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TRANSPORTATION
OFFICE OF TRANSPORTATION PLANNING

MEMORANDUM

TO: David J. Mohler, Executive Director
Office of Transportation Planning

FROM: J. Lionel Lucien, P.E., Manager
Public/Private Development Unit

DATE: February 22, 2013

RE: Boston – BioSquare Phase II – SFEIR
(EEA #12021)

The Public/Private Development Unit has reviewed the SFEIR (Supplemental Final Environmental Impact Report) for the BioSquare Phase II project in Boston (EEA #12021), dated January 9, 2013. The project involved the construction of a 192,000 square-foot (sf) National Emerging Infectious Diseases Laboratory (NEIDL) within the existing Boston University Medical Center Campus. The project parcel is bounded by Albany Street on the north, the Massachusetts Avenue Connector on the south, Frontage Road Southbound on the east and East Concord Street on the west. This project previously underwent MEPA review and was issued a Certificate on the Final Environmental Impact Report (FEIR) in July 2004. The issuance was appealed through litigation in Superior Court, following which the Secretary of the Executive Office of Energy and Environmental Affairs requested a SFEIR in September 2005. The SFEIR includes a risk assessment in relation to the possibility of hazardous materials releases from the facility. A MassDOT Vehicular Access Permit is required for access on the I-93 Frontage Road Southbound.

Trip Generation

During the previous phases of the MEPA process in 2003 and 2004, a full evaluation was conducted on the projected impacts of this project on the state roadway system. At the time, MassHighway, now part of the MassDOT Highway Division, recommended that no further review be required based on transportation issues. Since it is now nine years later, MassDOT requests assurance that the baseline conditions have not changed significantly and that the mitigation proposed would still be effective in minimizing degradation of existing operations. Therefore, the proponent should prepare and submit for MassDOT review a limited transportation impact study prepared in conformance with EOEEA/MassDOT Guidelines for Traffic Impact Assessment. At a minimum, the study should include capacity analyses for both Build and No-Build conditions at the following key intersections within the State Highway Layout:

- Massachusetts Avenue, Massachusetts Avenue Connector (MAC), and Southampton Street;
- I-93 Frontage Road Southbound at the proposed site driveway;
- I-93 Frontage Road Southbound at MAC;
- I-93 Frontage Road Southbound at Albany Street.

Transportation Demand Management (TDM)

The project site is located within a dense, urban environment, with a robust system of public transit and bike/pedestrian accommodations. As a result, the expectation is that the mode share will be heavily reliant on public transit, walking, and biking. The proponent had committed to a full program of TDM measures during the submission of the Final Environmental Impact Report (FEIR). The proposed TDM measures include numerous policies such as transit pass subsidies, the provision of shuttle buses, carpooling/vanpooling, membership in a Transportation Management Association, telecommuting, and parking management and pricing. The measures also included site/building features such as on-site showers, bike racks, and bike cages. Overall, the proposed TDM plan is comprehensive and shows a good faith effort to reduce the reliance on single-occupant automobiles. The SDEIR states that many of these measures have been carried out. The proponent should provide a summary of current and proposed TDM measures, along with timelines for any that are proposed, for review by MassDOT prior to the issuance of a Section 61 Finding.

In addition, the proponent should conduct traffic monitoring within one year of full build out of the project and should continue this monitoring for three years. Results should be submitted to MassDOT for review.

If you have any questions regarding these comments, please contact me at (857) 368-8862 or Derek Valentine at (857) 368-8885.